HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal Nos.593 & 617 of 2007

Writ Appeal No.593 of 2007

Between:

B. Venkateshwar Reddy

... Appellant

And

The District Collector, Nellore & others

... Respondents

Writ Appeal No.617 of 2007

Between:

B. Venkateshwar Reddy

... Appellant

And

The District Collector, Nellore & others

... Respondents

Counsel for the appellant: Shri D. Prakash Reddy, Senior Advocae assisted by Shri B. Ravinder Reddy

Counsel for the respondents: Shri Assistant Government Pleader for Home

::JUDGMENT::

August 09, 2007

Per G.S. Singhvi, CJ

These appeals are directed against common order dated 2.7.2007 passed by the learned Single Judge in Writ Petition Nos.24930 and 25217 of 2006 whereby he declined to quash the proceedings of criminal cases Nos.9 and 50 of 2006 registered against the appellant at Duttalur Police Station, Duttalur Mandal, Nellore District.

The appellant is said to have purchased land measuring Ac.4-95 cents comprised in Survey No.125/2 in Appasamudram Village, Udayagiri Mandal, Nellore District from the original assignees through unregistered sale-deeds. After taking possession, the appellant started fencing the land. In that process, he is said to have encroached on the government land comprised in Survey Nos.21, 22, 23 and 47 measuring Ac.28-14 cents and even blocked the cart-track situated in Survey Nos.20/2 and 21/2. Panchayat Secretary, Narrawada (respondent No.3) made a report to Mandal Revenue Officer, Duttalur Mandal, Nellore District (respondent No.2) about encroachment made by the appellant. The latter lodged complaint dated 12.2.2006 at Duttalur Police Station. Thereupon, FIR No.9 of 2006 was registered against the appellant under Sections 427, 434 and 447 IPC.

During the investigation of the aforesaid case, respondent No.2 lodged another complaint, which led to registration of FIR No.50 dated 6.11.2006.

The appellant questioned the registration of two cases in Writ Petition Nos.24930 and 25217 of 2006. One of the grounds taken by him was that two crimes cannot be registered in respect of the same

incident. He also pleaded that the complaints lodged by respondent No.2 do not disclose commission of any offence and, therefore, both the cases are liable to be quashed.

After going through the contents of complaints dated 12.2.2006 (wrongly mentioned in the impugned order as 11.2.2006) and 6.11.20006, the learned Single Judge dismissed the writ petitions. In the opinion of the learned Single Judge, the two complaints lodged by respondent No.2 referred to different parcels of land and, therefore, the ratio of the Supreme Court's judgment in **T.T. Antony v. State of Kerala**[1] is not attracted in the petitioner's case.

We have heard Shri D. Prakash Reddy, Senior Counsel appearing for the appellant and the learned Assistant Government Pleader for Home.

The substance of the complaint dated 11.2.2006 lodged by respondent No.2, which led to registration of FIR No.9 dated 12.2.2006, reads thus:

> Sub: Tress-passing into Assigned/Govt. land Duttalur Mandal, Narrawada Village, Sri Bayyappa Reddy Vennkateshwar Reddy.
>
> Tresspassing into S.No.21,22, 23
>
> Ref: 1. This Office Rc.B 981/2005, dt.31.12.2005
>
> 2. This Office Rc.B 981/2005, dt.17.1.2006
>
> In the continuation of this office reference cited, I am to inform you that the Mandal Surveyor today inspected the lands and reported Sri Bayyappa Reddy Venkateshwar Reddy a ryot entered into the following lands in Narrawada Village (Both Govt. and assigned lands) formed fencing around and dug huge pits (1360) for plantations which unauthorized and highly irregular.

S.No.	Extent	Details
21-1	2.53	Shaik Pakeer Saheb (Assigned land)
21-2	0.44	Bandi Bata (Govt. land)
21-3	0.70	Anadheenam (Govt.land)

21-4	1.42	Shaik Khajavali (Assigned land)
21-5	0.74	Anadheenam (Govt. land)
21-6	2.81	Syed Khajavali (Assigned land)
21-7	2.99	Shaik Chinna Hazarat (Assigned land)
21-8	2.99	Shaik Ramthulla (Assigned land)
22-1	0.09	Bandi Bata (Govt. land)
22-2	1.63	Shaik Khajavali, S/o.Komal Saheb (Assigned land)
22-3	3.00	Shaik Ramthulla, S/o.Meera Saheb (Assigned land)
22-4	3.00	Shaik Hussain Saheb (Assigned land)
22-5	3.00	Mkapati Venkataramaiah (Assigned land)
23	1.94	Konda Poramboku (Govt. land)
Total Extent:	27.28	

The substance of complaint dated 6.11.20006, which led to registration of FIR No.50 of the same date, reads as under:

Sub: Encroachment – Duttalur Mandal, Narrawada Village, Sri Bayyapreddy Venkateswara Reddy, S/o.Chinna Vengalreddy encroached the Govt. land in Sy.No.21, 22, 23 and 47 eviction – requested –Reg.

Ref: 1. This RCB 981/2005, dt.11.12.2005.
2. FIR registered by SHO, Duttalur, dt.12.2.2006.

…

In continuation of this office reference, it is inform you that Sri Bayyapureedy Venkateswara Reddy, S/o.China Vengalareddy of Narrawada, who encroached the Govt. land illegally has reported that the encroacher planting Sweet Lemon plantation in the Govt. land even though a case in Cr.No.9/06 is pending before the Duttalur P.S. against the said accused. A Xerox copy of the report from the Panchayat Secretary, Narrawada is enclosed for information. In this connection, I request you to take necessary action to evict the trespasser immediately and action taken may be informed to this office.

It is to inform you that Srii Bayyapureddy Venkateshwar Reddy S/o.Chinna Vengal Reddy, R/o.Narrawada has purchased the following D Form Patta lands from the assignes and laid fencing around the said lands:

S.No.	Extent	Patta No.	Name of Pattedar
21-1	2.53	974	Sk. Fakeer Saheb s/o.Rasool Saheb
21-2	0.44	-	Porambok Road
21-3	0.70	-	Not occupied
21-4	1.42	975	Sk. Khajavalli s/o.Kamal Saheb
21-5	0.74	-	Not occupied
21-6	2.81	976	Syed Khaja Valli S/o.Mohiuddin Saheb
21-7	2.99	977	Sk. Chinna Hazrath s/o. Khajavalli Saheb
21-8	2.99	978	Sk. Ramatulla s/o. Silar Saheb
22-1	0.09	-	Road.
22-2	1.63	975	Sk. Khaja Valli s/o. Kamal Saheb
22-3	3.00	979	Sk. Rahamatulla s/o. Meera Saheb
22-4	3.00	980	Sk. Hussain Saheb s/o.Mamma Souel
22-5	3.00	981	M. Venkatramaiah s/o. Bhoomaiah
	25.98		

A conjoint reading of the two complaints makes it clear that the primary allegation levelled against the appellant relates to the alleged encroachment of government/assigned land and taking up of plantation. The subject matter of the two complaints is one and the same with one variation regarding total extent of land (in complaint dated 11.2.2006, the total extent is mentioned as 27.28 acres and in complaint dated 6.11.2006, the total extent is shown as 25.98 acres). The other variation is in relation to the mention of Survey No.47 in complaint dated 6.11.2006. However, there is no doubt that both the complaints contain almost identical allegations. Therefore, the observation made by the learned Single Judge that the FIRs registered by the police relate to different lands belonging to different

parties has to be declared as based on misreading of the complaints.

In **T.T.Antony v. State of Kerala** (supra), the Supreme Court considered the question whether there can be two F.I.Rs in relation to same occurrence and held

> "Apart from a vague information by a phone call or cryptic telegram, the information first entered in the station house diary, kept for this purpose, by a police officer in charge of a police station is the First Information Report - F.I.R. postulated by S.154 of Cr.P.C. All other information made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned in the First Information Report and entered in the station house diary by the police officer or such other cognizable offences as may come to his notice during the investigation, will be statements falling under S.162 of Cr.P.C. No such information/statement can properly be treated as an F.I.R. and entered in the station house diary again, as it would in effect be a second F.I.R. and the same cannot be in conformity with the scheme of the Cr.P.C. The scheme of the Cr.P.C. is that an officer in charge of a Police Station has to commence investigation as provided in S.156 or 157 of Cr.P.C. on the basis of entry of the First Information Report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of evidence collected he has to form opinion under S.169 or 170 of Cr.P.C., as the case may be, and forward his report to the concerned Magistrate under S.173(2) of Cr.P.C. However, even after filing such a report if he comes into possession of further information or material, he need not register a fresh F.I.R., he is empowered to make further investigation, normally with the leave of the Court and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of S.173, Cr.P.C. Under the scheme of the provisions of S.154, 155, 156, 157, 162, 169, 170 and 173 of Cr.P.C. only the earlier or the first information in regard to the commission of a cognizable offence satisfies the requirements of S.154, Cr.P.C. Thus there can be no second F.I.R. and consequently there can be no fresh investigation on receipt of every subsequently information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offence. On receipt of information about a cognizable offence or incident giving rise to a cognizable offence or offences and on entering the F.I.R. in the station house diary, the

> officer in charge of a Police Station has to investigate not merely the cognizable offence report in the F.I.R. but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in S.173 of the Cr.P.C."

By applying the ratio of the above noted judgment to the facts of this case, we hold that the proceedings of the second complaint lodged against the appellant, which was subject matter of Writ Petition No.24930 of 2006, are liable to be quashed.

As regards the first complaint, which led to registration of FIR No.9, dated 12.2.2006, the learned counsel initially made some efforts to convince us that the same does not disclose commission of offence, but on finding that the Court is not inclined to agree with him, he made a request that the appellant may be permitted to withdraw Writ Appeal No.617 of 2007.

In the result, Writ Appeal No.593 of 2007 is allowed. FIR No.50 dated 6.11.20006 registered against the appellant at Duttalur Police Station, Duttalur Mandal, Nellore District is quashed. Writ Appeal No.617 of 2007 is dismissed as withdrawn. However, it is made clear that this order shall not affect the investigation of FIR No.9 dated 12.2.2006 and the Court before which the chalan has already been filed shall decide the matter in accordance with law without being influenced by the quashing of FIR No.50 dated 6.11.2006.

As a sequel to disposal of the appeals in the manner indicated above, WAMP No.1192 of 2007 (in Writ Appeal No.593 of 2007) and WAMP No.1248 of 2007 (in Writ Appeal No.617 of 2007) are disposed of as infructuous.

G.S. SINGHVI, CJ

August 09, 2007

C.V. NAGARJUNA REDDY, J

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[1] AIR 2001 SC 2637